

1 the Internal Revenue Service. A separate Certificate of Mailing
2 has been filed with the court.

3 DATED at Anchorage, Alaska, January 30, 1989.

4 ARTUS, CHOQUETTE, WILLIAMS
5 & ALLMARAS
6 Attorneys for Plaintiff

7 By 
8 for William D. Artus

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Telephone: (202) 724-6494

FILED

JAN 20 1989

CLERK
U.S. BANKRUPTCY

By Deputy Clerk

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
DISTRICT OF ALASKA

In re:)	
)	
TOTEM BROADCASTING CORP.,)	BANKR. NO. 3-85-00199
)	
Debtor.)	
)	
<hr/>		
BENNIE LEONARD, Trustee,)	
)	
Plaintiff,)	
)	
v.)	ADV. NO. 3-85-00199-003
)	
RONALD K. BRADLEY, INTERNAL)	
REVENUE SERVICE, and MIKAEL)	
PARKER,)	
)	UNITED STATES'
Defendants.)	MOTION TO DISMISS
)	
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The United States of America, for the named agency the Internal Revenue Service, by and through the undersigned counsel, moves to dismiss the Internal Revenue Service from this action pursuant to Rule 7012 of the Federal Bankruptcy Rules. The basis of the motion is that the United States was not properly served and that the Internal Revenue Service is not a party subject to

suit. The United States, therefore, respectfully requests that the Internal Revenue Service be dismissed.

A memorandum of points and authorities is attached.

Dated this 18th day of January 1989.

MICHAEL R. SPAAN
United States Attorney



DAVID A. HUBBERT
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 683
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 724-6494

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing UNITED STATES' MOTION TO DISMISS has this 17th day of January 1989 been made on opposing counsel by mailing a copy thereof addressed to:

William D. Artus, Esquire
629 L. Street, Suite 101
Anchorage, AK 99501

Leonstance L. Buscare

MICHEAL R. SPAAN
United States Attorney
Room C-252, Federal Building and
United States Courthouse
701 C Street, Mail Box 9
Anchorage, Alaska 99513

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IN THE UNITED STATES BANKRUPTCY COURT FOR THE
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In re:)	
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TOTEM BROADCASTING CORP.,)	BANKR. NO. 3-85-00199
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Debtor.)	.
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BENNIE LEONARD, Trustee,)	
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Plaintiff,)	
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v.)	ADV. NO. 3-85-00199-003
)	
RONALD K. BRADLEY, INTERNAL)	
REVENUE SERVICE, and MIKAEL)	UNITED STATES'
PARKER,)	MEMORANDUM OF POINTS
)	AND AUTHORITIES IN
Defendants.)	SUPPORT OF MOTION
)	TO DISMISS

The United States of America, for the named agency the Internal Revenue Service, by and through the undersigned counsel, submits this memorandum of points and authorities in support of the motion to dismiss the Internal Revenue Service from this action pursuant to Rule 7012 of the Federal Bankruptcy Rules. The basis of the motion is that the Internal Revenue Service is not a party subject to suit and that the United States was not properly served.

The United States, therefore, respectfully requests that the Internal Revenue Service be dismissed.

STATEMENT

This is an adversary proceeding commenced by the trustee to determine the validity and priority of claims to a fund owed by the debtor to Mikael Parker. The trustee named the Internal Revenue Service as a party because the trustee was served with a Notice of Levy by the Internal Revenue Service. See Complaint, at ¶ 2. The Internal Revenue Service was served, by regular mail, with a copy of the summons and complaint mailed to "Internal Revenue Service, P.O. Box 12649, Seattle, Washington 98111, Attn: Bill Waight, Mail Stop 216." See Certification of Service signed by Lynda M. McCord, dated August 31, 1988. There is no evidence that the United States Attorney for the District of Alaska or the Attorney General of the United States were served in any manner.

ARGUMENT

The Internal Revenue Service must be dismissed from this action for two reasons. First, the Internal Revenue Service is not an entity that may be sued. Second, the United States, the proper party, or the Internal Revenue Service have not been properly served. Each argument is set forth below.

The Internal Revenue Service must be dismissed because it is not an agency subject to suit. Blackmar v. Guerre, 342 U.S. 512, 514 (1952); Blair v. U.S. Treasury Department, 596 F. Supp. 273, 279 (N.D. Ind. 1984); Provenza v. Rinaudo, 586 F. Supp. 1113, 1117 (D. Ma. 1984); Washburn v. Shapiro, 409 F. Supp. 3, 8 (S.D. Fla. 1976); Krouse v. United States, 380 F. Supp. 219, 221 (C.D. Cal.

1974)("The Department of the Treasury and the Internal Revenue Service are not entities subject to suit and they should be dismissed."); Baumohl v. Columbia Jewelry Company, 127 F. Supp. 865, 867 (D. Ma. 1955); United States v. Simms, 33 B.R. 792, 793 (N.D. Ga. 1983), on remand, 40 B.R. 186 (Bankr. N.D. Ga. 1984).

Simms is factually very similar to the instant situation. In Simms, an objection to a proof of claim naming the Internal Revenue Service was served upon the individual working for the Internal Revenue Service who filed a proof of claim on behalf of the United States for unpaid taxes. The United States Attorney and the Attorney General were not served with the objection. The Bankruptcy Court entered an Order disallowing the United States' claim and the United States appealed. In vacating the Bankruptcy Court's Order, the District Court states, "It is well settled that the Internal Revenue Service cannot sue and may not be sued, but that the proper party in such instance is the United States of America. Thus while the debtor/defendant did serve its objections and the notice of preliminary hearing, it served these documents upon the wrong party." Simms 33 B.R. at 793.

Thus, in this case, the Internal Revenue Service is not a property party to this action and must be dismissed.


Even if the Court were to now substitute the United States as the proper party, service of process upon the United States has been improper and it must be dismissed. Rule 7004 of the Federal Bankruptcy Rules provides for the proper manner of service of process. Rules 7004(b)(4) and (5) require service upon the agency named in the action, the United States

Attorney in the District in which the action is filed, and the Attorney General of the United States. If the summons and complaint are not served in this manner, service of process is insufficient and the complaint should be dismissed. United States v. Rowe, No. C86-1848A, (N.D. Ga. December 11, 1986)(failure to serve Attorney General warranted dismissal of contested matter); In re Morrell, 87-1 U.S.T.C. 87,147 (N.D. Cal. 1986). (Copies of these opinions are attached for the Court's convenience.) In this case, it appears that only the Internal Revenue Service in Seattle, Washington was served. There was no service on the Internal Revenue Service in Anchorage, Alaska, the United States Attorney, or the Attorney General. Thus, service of process was insufficient and the United States and the Internal Revenue Service must be dismissed.

Because the Internal Revenue Service is the only party named and served in this instance, the United States respectfully requests that the Internal Revenue Service be dismissed from this action.

Dated this 18th day of January 1989.

MICHAEL R. SPAAN
United States Attorney



DAVID A. HUBBERT
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 683
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 724-6494

FILED IN CLERK'S OFFICE
U.S.D.C. - Atlanta

DEC 11 1980

IN THE UNITED STATES DISTRICT COURT THER D. THOMAS, Clerk
FOR THE NORTHERN DISTRICT OF GEORGIA By:
ATLANTA DIVISION Deputy Clerk

UNITED STATES OF AMERICA,

Appellant,

vs.

SAMUEL J. ROWE,

Appellee.

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C86-1848A

ORDER

This action is before the court on appeal from an order of the bankruptcy court. Appellant United States of America contends that the bankruptcy court lacked jurisdiction over appellant and that the bankruptcy court's order is in violation of the Anti-Injunction Act, 26 U.S.C. § 1421. Appellee Samuel J. Rowe responds that appellant waived its jurisdictional objection by appearing at a pretrial conference and by preparing the order from which it appeals. Further, Roe responds that the bankruptcy court has the authority to issue an order enjoining collection of a tax penalty pursuant to the Internal Revenue Service's own policy. Finally, appellee contends that the notice of appeal in this action was untimely.

The court finds that the notice of appeal was timely filed pursuant to Bankruptcy Rules 8002 and 9006. Rule 8002 requires a notice of appeal to be filed within ten days of the date of entry

of the order appealed from. Rule 9006 states that in computing any time period prescribed by the rules, "[t]he last day of the period...shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday." The order appealed from was entered on July 10, 1986. July 20, 1986, fell on a Sunday, so appellant's July 21, 1986, filing of a notice of appeal was timely.

The court does not decide appellant's second argument--that the bankruptcy court lacked the authority to issue an order enjoining collection of a tax penalty assessed pursuant to 26 U.S.C. § 6672. This is because the court finds that the bankruptcy court lacked jurisdiction over appellant. Jurisdiction was lacking because appellee failed to serve appellant properly under Bankruptcy Rule 7004(b)(4):

[S]ervice may be made within the United States by first class mail postage prepaid as follows:

(4) Upon the United States, by mailing a copy of the [objection] to the United States attorney for the district in which the action is brought and also the Attorney General of the United States at Washington, District of Columbia,....

Because an objection to a proof of claim is a contested matter within the meaning of Bankruptcy Rule 9014, see 3 Collier on Bankruptcy ¶ 502.01 (15th ed. 1984), appellee was required to serve his objection on the Attorney General, as provided in Bankruptcy Rule 7004. See Bankruptcy Rule 9014. The requirement

of proper service on the United States is part of the waiver of sovereign immunity and, therefore, necessary in order to obtain jurisdiction over the United States. See Honda v. Clark, 386 U.S. 484, 501, 87 S.Ct. 1188, 1197 (1967).¹ Appellee's argument that appellant waived its objections to proper service by preparing a proposed order pursuant to the bankruptcy court's direction also must be rejected. Appellant's letter to the bankruptcy court containing the proposed order clearly noted appellant's objection to that order, including the objection of improper service. See Exhibit A, Reply Brief of Appellant United States of America. Finally, appellee's argument that appellant waived its jurisdictional objection by its counsel's presence at a pretrial conference also must be rejected. A party may file a general appearance and object to personal jurisdiction at any time before an answer is filed or may make such objection along with its answer. See Williams v. Canon, Inc., 432 F. Supp. 376, 382 (C.D. Cal. 1977); Fed. R. Civ. P. 12(b). Thus, the court will vacate the bankruptcy court's order.

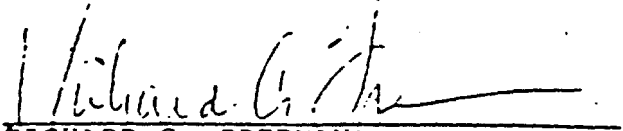
As noted earlier, the court does not decide whether the bankruptcy court lacked jurisdiction to issue its order because of the Anti-Injunction Act, 26 U.S.C. § 7421. Nonetheless, the court notes that appellant's argument may be meritorious. The

¹ Even if improper service on the United States did not defeat jurisdiction, the United States still was entitled to object to the bankruptcy judge's order because of insufficiency of service of process. See United States v. Simms, 33 Bankr. 792 (N.D. Ga. 1983) (service of objection on the Internal Revenue Service and not the Attorney General required reversal of bankruptcy judge's order).

bankruptcy court should require appellant to file an answer pursuant to Bankruptcy Rule 9014 so that it may consider appellant's arguments.

Accordingly, the bankruptcy court's order issued July 10, 1986, is VACATED. This action is REMANDED to the bankruptcy court for appropriate action. Appellee shall serve his objections to appellant's proof of claim on the United States Attorney for the Northern District of Georgia and the Attorney General of the United States, pursuant to Bankruptcy Rule 7004(b)(4), as directed by the bankruptcy court.

SO ORDERED, this 11th day of DECEMBER, 1986.


RICHARD C. FREEMAN
UNITED STATES DISTRICT JUDGE

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Finally, Bohrer contends that three jury instructions prepositionally placed matters before the jury that were not raised by evidence or argument. The instructions stated respectively that wages are income, that the amount of taxes actually due on income need not be proved, and that disagreement with the tax law or a belief that the tax law is unconstitutional is not a

good-faith defense to willful failure to file tax returns. The record reveals that each of these instructions was relevant to the evidence raised at trial and discussed above. Bohrer's contentions with respect to the instructions are meritless.

AFFIRMED.

[¶9142] In re Richard J. Morrell, Debtor.

U.S. District Court, No. Dist. Calif.; C-86-3601 CAL, 11/6/86.

[Code Sec. 6871]

Tax claims-bankruptcy: Claims for income, estate, and gift taxes in bankruptcy and receivership proceedings: Bankruptcy or receivership: Creditors' objections to claims.—In reversing a bankruptcy judge's order, the district court ruled that a Creditor's Committee failed to properly serve its objections to claims filed by the IRS on behalf of the United States against the estate of an individual for taxes due and that the United States was not given proper notice of the hearing on the objections to its claims. The district court found that proper service of the objections to the IRS claims required service by first class mail postage prepaid upon the United States Attorney for the Northern District of California and the Attorney General of the United States at Washington, D.C. The court stated that the IRS has no capacity to sue or be sued, and the real party in interest was the United States. Thus, the Creditors' Committee failed to serve its objections upon the proper party when it served its objections upon the Director of the Internal Revenue Service in San Francisco, California. Back reference: ¶5641.01.

Lynn Anderson Koller, Koller & Maconaghy, 2354 Powell St., Emeryville, Calif. 94608, Dennis Davis, 44 Montgomery St., San Francisco, Calif. 94104, Edward Walsh, 1225 Post St., San Francisco, Calif. 94104, for debtor. David L. Denier, Assistant United States Attorney, San Francisco, Calif. for U.S.

ORDER

LEGGE, District Judge: This matter came before the court on appeal by the United States of America from the Bankruptcy Judge's Order of April 23, 1986. The oral argument was heard on September 26, 1986, and the court considered the record, the arguments of counsel, and the applicable authorities.

I

On April 15, 1981, Richard J. Morrell filed a petition for bankruptcy under Chapter 11 of the Bankruptcy Code. Four claims were filed by the Internal Revenue Service on behalf of the United States, Claim No. 609 filed on November 17, 1981 in the amount of \$30,346.75, Claim No. 651 filed on February 17, 1982, in the amount of \$16,762.57, Claim No. 652 filed on February 17, 1982, in the amount of \$68,298.41, and Claim No. 679 filed on November 24, 1982, in the amount of \$59,841.68.

On February 2, 1984, the Creditors' Committee filed objections to Claim Nos. 651, 652 and 679. Those objections were served upon the Director of Internal Revenue Service, 450 Golden Gate Avenue, San Francisco, California

94102. Copies of the objections were not mailed to the United States Attorney for the Northern District of California or to the Attorney General of the United States at Washington, D.C.

The Creditors' Committee's objections were noticed for hearing on February 28, 1984 at 2:00 P.M. and heard on that date. No one appeared on behalf of the United States at the hearing. Unopposed, the Creditors' Committee's objections were sustained and Claim Nos. 651, 652 and 679 were disallowed by an order entered April 9, 1984.

Upon discovering the default, the United States, through its attorney, Assistant United States Attorney David L. Denier, contacted Lynn Koller, attorney for the Creditors' Committee. Refusing to stipulate to vacate the default, the Committee filed Creditors' Committee's Further Objections to Claims Nos. 651, 652 and 679 on February 26, 1986.¹ The Creditors' Committee stated two bases for disallowing the claims: (1) that the disallowance of the three claims should be affirmed because of the failure of the United States to oppose the objections filed by the Creditors' Committee on February 2, 1984, and (2) that the claims are amendments

¹ Under the Bankruptcy Rules, a motion for reconsideration of an order allowing or disallowing a claim against the

estate may be brought by any party in interest. Bankr. R. 3008.

amounting to the presentation of new claims which should not be allowed after the claim bar date.

Bankruptcy Judge Wolfe sustained the disallowance of Claims Nos. 651, 652 and 679 because of the failure of the United States to oppose the objections at the February 28, 1984 hearing.² Judge Wolfe rejected the United States' argument that the objections had to be served upon the United States Attorney for the Northern District of California and the Attorney General of the United States. The United States is now appealing this ruling.

II

The ruling of the Bankruptcy Judge should be reversed because the Creditors' Committee failed to properly serve its objections to Claim Nos. 651, 652 and 679 upon the United States and because the United States was not given proper notice of the hearing on the Creditors' Committee's objections to its claims.

Rules 9014 and 7004(b)(4) require and provide that in addition to the methods of service authorized by Fed. R. Civ. P. 4(d), service may be made within the United States by first class mail postage prepaid.³

Upon the United States, by mailing a copy of the summons and complaint to the United States Attorney for the district in which the action is brought and also the Attorney General of the United States at Washington, District of Columbia, and in any action attacking the validity of an order of an officer or an agency of the United States not made a party, by also mailing a copy of the summons and complaint to such officer or agency.

Thus, proper service of the objections to the IRS claims required service by first class mail postage prepaid upon the United States Attorney for the Northern District of California and the Attorney General of the United States of Washington, D.C.

It is clear from the claims that the United States is the actual claimant, although they were filed by an agent of the Internal Revenue Service. Proof of Claim No. 609, along with the amendments thereto (Claims Nos. 651 and 652), were signed by Paul J. Krug, Chief, Special

Procedures Staff. Supplemental Claim No. 679 was signed by Michael T. Eesi, Acting Chief, Special Procedures Staff. Both officials were agents of the Department of Treasury, Internal Revenue Service, authorized to make this proof of claim [or request for payment] on behalf of the United States. All of the claim forms show that the grounds for [or ground of] liability is for taxes due under the internal revenue laws of the United States.

It is well established principle that the Internal Revenue Service has no capacity to sue or be sued, and that the real party in interest in cases such as this is the United States. *Blackmar v. Guerre*, 342 U.S. 512, 514 (1952); *In re Simms*, 33 Bankr. 792, 793 (N.D. Ga. 1983). See also, *Dugan v. Rank*, 372 U.S. 609, 620 (1963); *Larson v. Domestic & Foreign Corp.*, 337 U.S. 682, 704 (1949); *Land v. Dollar*, 330 U.S. 731, 738 (1947). Thus, the Creditors' Committee failed to serve its objections to Claim Nos. 651, 652 and 679 upon the proper party.

The requirement of service upon the Attorney General and the United States Attorney is not a technical exercise or a nuisance to be inflicted upon the private bar in bankruptcy litigation. Pursuant to 28 U.S.C. §§ 515, 516 and 519, the United States Department of Justice is charged with supervision of all litigation in which the government is a party. By Rule (e.g., Fed. R. Civ. P. 4(d)(4)) and by statute (e.g., 28 U.S.C. § 2410(b)), the statutory policy has been assisted by requiring that original service of process be made upon appropriate officials of the Department. With the promulgation of the Bankruptcy Rules, the service requirement was made clearly applicable in bankruptcy litigation.

III

Since the Creditors' Committee failed to properly serve the United States Attorney and the Attorney General, the Bankruptcy Judge's April 23, 1986 order must be reversed, and Claims Nos. 651, 652 and 679 must be considered on their merits.

IT IS ORDERED that the April 23, 1986 order is reversed, and Claims Nos. 651, 652 and 679 are remanded to the Bankruptcy Court.

² Judge Wolfe did not address the second basis set forth by the Creditors' Committee for disallowing the United States' claims.

³ Fed. R. Civ. P. 4(d)(5) provides that service shall be made upon an agency of the United States "by serving the United States and by sending a copy of the summons and complaint by registered or certified mail to such agency." Fed. R. Civ. P. 4(d)(4) provides that service shall be made upon the United States by delivering a copy of the summons and of the complaint to the United States Attor-

ney for the district in which the action is brought or to an Assistant United States Attorney or clerical employee designated by the United States Attorney, and by sending a copy of the summons and of the complaint by registered or certified mail to the Attorney General of the United States at Washington, District of Columbia. Rule 7004(b) modifies Fed. R. Civ. P. 4(d) by authorizing service of process by first class mail postage prepaid. Bankr. R. 7004(b). Advisory Committee Note.

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing UNITED STATES' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO DISMISS has this 17th day of January 1989 been made on opposing counsel by mailing a copy thereof addressed to:

William D. Artus, Esquire
629 L. Street, Suite 101
Anchorage, AK 99501

Leonstance R. Buscoe

FILED

JAN 20 1988

CLERK
U.S. BANKRUPTCY COURT
By Deputy Clerk

PROCEEDING MEMORANDUM FOR STATUS CONFERENCE

Friday
January 20, 1989

TIME CASE NUMBER, NAME, and CHAPTER
TYPE OF PROCEEDING and COUNSEL

9:00 a.m. 3-85-00199-003 (3-85-00199), TOTEM BROADCASTING CORPORATION,
Debtor, BENNIE LEONARD, Trustee v. RONALD BRADLEY, INTERNAL
REVENUE SERVICE, AND MIKAEL PARKER.

Status Conference. William Artus for the Plaintiff;
Roger Beaty for Ronald Bradley; John ~~Parker~~ *Young* for Mikael
Parker.

Adjourned to: *Feb 27th* 1989 at 1:30 p.m. for: *Hearing on*

APPEARANCES: *Roger Beaty | Ronald Bradley |* *Motion for*
John Young (late) *Summary*
Judgment
(before Judge
Luckey)

LOG: TAPE NO.- 1 LOG NO.- 3-388
NOTES AND/OR ORDERS OF BANKRUPTCY JUDGE:

Trial set for: _____, 1987 (Amt. time reserved _____)

2- Witness lists to be exchanged by: _____

3- Discovery to be completed by: _____

4- Exhibits exchanged 10 days before trial, and complete sets for all
opposing counsel, the court, plus the originals shall be available for
use. See, LBR 9.

5- The items agreed upon as uncontested in the Status Conference Report
are established by stipulation and proof need not be submitted on these
items.

6- Trial briefs shall be submitted 5 business days before the trial date.

7- Counsel shall notify the court promptly if a settlement is reached so
the calendar date can be used for other matters. All settlements which
need to be noticed out pursuant to BR 2002 should be notice before
submitting a final order.

8- Other matters ruled upon or discussed by the court:

*Beaty intends to file motion for summary judgment &
serve all parties. Hrg set for 2-27-89 @ 1:30 pm*

*John Young, 4040 Seafirst,
5th Ave Plaza
Seattle, WA 98104
Beaty, 1400 W. Benson, 98103*

C. E. Luckey
BANKRUPTCY JUDGE/DEPUTY CLERK

TOTEM BROADCASTING
BANKRUPTCY
PAGE 66

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF ALASKA

In re Case No. 3X-85-00199

TOTEM BROADCASTING, INC.,

Chapter 7

Debtor(s).

BENNIE LEONARD, TRUSTEE,

Plaintiff(s),

vs.

Adv. Case No. 3-85-00199-003

RONALD K. BRADLEY, INTERNAL
REVENUE SERVICE, and MICHAEL
PARKER,

AMENDED NOTICE OF STATUS
CONFERENCE SUPERCEDES NOTICE
DATED DECEMBER 19, 1988)

Defendant(s).

To: William D. Artus, Esq.
ARTUS, CHOQUETTE,
WILLIAMS & ALLMARAS
629 "L" Street, Suite 101
Anchorage, AK 99501

Roger Beaty, Esq.
BEATY & ROBINS
1400 W. BENSON, SUITE 1
Anchorage, AK 99503

Robert Crowther, Esq.
Internal Revenue Service
P.O. Box 10-1500
Anchorage, AK 99501

Internal Revenue Service
Attn: Bill Waight
Mail Stop 216, P.O. Box 12649
Seattle, WA 98111

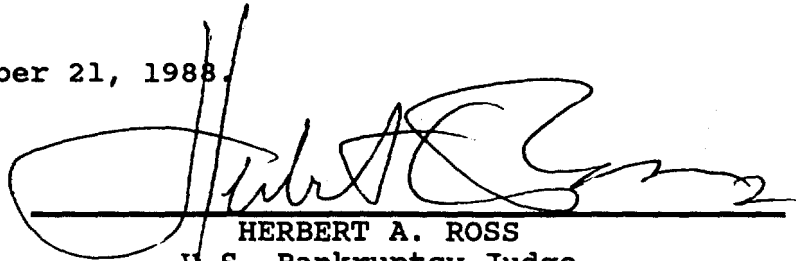
Essenburg & Staton
4040 Sea-first
Fifth Ave. Plaza
Seattle, WA 98104

William Pace, Esq.
Yerbich & Pace
329 "F" Street, Suite 210
Anchorage, AK 99501

Mike Parker & Associates
4041 Ruston Way, Suite 2B
Tacoma, WA 98402

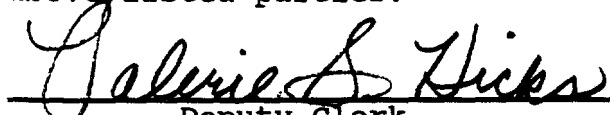
PLEASE TAKE NOTICE that a status conference will be held in this case before the Honorable C. E. Luckey in the Bankruptcy Court, Old Federal Building, 605 West 4th Avenue, room to be announced, Anchorage, Alaska, on Friday, January 20, 1989, at 9:00 A.M.

DATED: December 21, 1988.



HERBERT A. ROSS
U.S. Bankruptcy Judge

A copy of this notice was mailed on December 21, 1988, to the above-listed parties.



Valerie S. Hicks
Deputy Clerk

1-130

Calendar ✓
Judge ✓

NOTICE OF STATUS CONFERENCE
PAGE 2

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF ALASKA

In re Case No. 3X-85-00199

TOTEM BROADCASTING, INC.,

Chapter 7

Debtor(s).

BENNIE LEONARD, TRUSTEE,

Plaintiff(s),

vs.

Adv. Case No. 3-85-00199-003

RONALD K. BRADLEY, INTERNAL
REVENUE SERVICE, and MICHAEL
PARKER,

NOTICE OF STATUS CONFERENCE

Defendant(s).

To: William D. Artus, Esq.
ARTUS, CHOQUETTE,
WILLIAMS & ALLMARAS
629 "I" Street, Suite 101
Anchorage, AK 99501

Roger Beaty, Esq.
BEATY & ROBINS
1400 W. BENSON, SUITE 1
Anchorage, AK 99503

Robert Crowther, Esq.
Internal Revenue Service
P.O. Box 10-1500
Anchorage, AK 99501

Internal Revenue Service
Attn: Bill Waight
Mail Stop 216, P.O. Box 12649
Seattle, WA 98111

Essenburg & Staton
4040 Sea-first
Fifth Ave. Plaza
Seattle, WA 98104

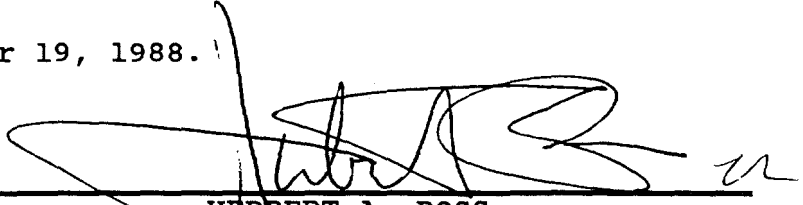
William Pace, Esq.
Yerbich & Pace
329 "F" Street, Suite 210
Anchorage, AK 99501

Mike Parker & Associates
4041 Ruston Way, Suite 2B
Tacoma, WA 98402

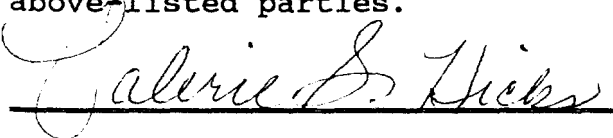
NOTICE OF STATUS CONFERENCE
PAGE 1

PLEASE TAKE NOTICE that a status conference will be held in this case before the Honorable C. E. Luckey in the Bankruptcy Court, Old Federal Building, 605 West 4th Avenue, room to be announced, Anchorage, Alaska, on Friday, January 20, 1989, at 9:30 A.M.

DATED: December 19, 1988.


HERBERT A. ROSS
U.S. Bankruptcy Judge

A copy of this notice was mailed on December 19, 1988, to the above-listed parties.



1-130

cc: Calendar ✓
Judge ✓

NOTICE OF STATUS CONFERENCE
PAGE 2

FILED

DEC 14 1988

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA

CLERK
U.S. BANKRUPTCY COURT
By
Deputy Clerk

In re: Case No. 3-85-00199)

TOTEM BROADCASTING CORP.)

Debtor(s).)

BENNIE LEONARD, Trustee,)

Plaintiff(s),)

v.)

RONALD K. BRADLEY, INTERNAL
REVENUE SERVICE and MIKAEL
PARKER,)

Defendant(s).)

Adversary No. 3-85-00199-003

NOTICE OF
STATUS CONFERENCE

To: William D. Artus
Attorney for Plaintiff
629 L St., Suite 101
Anchorage, AK 99501

Internal Revenue Service
P. O. Box 12649
Seattle, WA 98111
Attn: Bill Waight
Mail Stop 216

Rogert H. Beaty
Beaty, Draeger & Troll
1400 W. Benson Blvd. #1
Anchorage, AK 99503

Mikael Parker
C/O John G. Young
Essenburg & Staton
4040 Seafirst
Fifth Avenue Plaza
800 5th Avenue
Seattle, WA 98104

PLEASE TAKE NOTICE that a status conference will be held in this case before the Honorable C. E. Luckey in the Bankruptcy Court, Old Federal Building, 605 W. 4th Avenue, Room to be announced, Anchorage, Alaska, on Friday, January 20, 1989, at 9:00 a.m.

DATED: December 13, 1988

C. E. Luckey
C. E. LUCKEY, Bankruptcy Judge

A copy of this notice
mailed on the date shown
below to the parties
listed above.

M. G. Grogan 12-14-88
Deputy Clerk Date

cc: Calendar ✓

12-14-88 Judge ✓

Roger H. Beaty
BEATY, DRAEGER & TROLL, P.C.
1400 W. Benson Blvd., Suite #1
Anchorage, AK 99503
(907) 276-2722

FILED

SEP 21 1988

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA

CLERK
U.S. BANKRUPTCY COURT
Deputy Clerk

In re:)
TOTEM BROADCASTING CORPORATION,)
Debtor.) Bankruptcy No. 3-85-00199
BENNIE LEONARD, Trustee,)
Plaintiff,) Adversary No. 3-85-00199-003
vs.)
RONALD K. BRADLEY, INTERNAL)
REVENUE SERVICE and MICHEAL)
PARKER,)
Defendants.)

ANSWER

COMES NOW Ronald K. Bradley, by and through counsel
and answers Plaintiff's Complaint as follows:

1. Defendant Bradley admits the allegations contained in
Paragraph 1 of Plaintiff's Complaint.

2. Defendant Bradley admits that he has served an
execution on the final accounting of \$45,000 due to Micheal
Parker. Defendant Bradley believes the remainder of the
allegations to be true; however, has no direct knowledge on
which to assert an opinion as to the allegations contained in
Paragraph 2.

TOTEM BROADCASTING
BANKRUPTCY
PAGE 72

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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA

In re:

TOTEM BROADCASTING CORPORATION,

Debtor~~USA~~,*

BENNIE LEONARD, Trustee,

Plaintiff~~xxx~~,

v.

RONALD K. BRADLEY, INTERNAL REVENUE
SERVICE and MIKAEL PARKER,
Defendant(s).

Adversary No. 3-85-00199-003

Main Case No. 3-85-00199

SUMMONS AND NOTICE OF PRE-TRIAL CONFERENCE

To the above named defendant~~xxx~~: INTERNAL REVENUE SERVICE

Your are hereby summoned and required to serve upon
William D. Artus , plaintiff's attorney (or if plaintiff is not represented
by counsel, upon plaintiff), whose address is 629 L Street, Suite 101
Anchorage, Alaska 99501

either a motion or an answer to the complaint which is now served upon you. If
you elect to respond first by motion, as you may pursuant to Bankruptcy Rule
7012, that rule governs the time within which your answer must be served.
Otherwise, you are required to serve your answer upon plaintiff's attorney (or
upon plaintiff, if plaintiff is not represented by counsel) within thirty (30)
days of the date of issuance of this summons by the clerk except that the United
States or an office or agency thereof shall serve an answer to the complaint
within thirty-five (35) days after the date of issuance of the summons.

(If this summons and complaint is served in a foreign country) Service
of your answer must be made by the following date prescribed by the court:

The motion or answer served by you must be filed with this court not
later than the second business day after service. IF YOU FAIL TO RESPOND IN
ACCORDANCE WITH THIS SUMMONS, JUDGMENT BY DEFAULT WILL BE TAKEN AGAINST YOU FOR
THE RELIEF DEMANDED BY THE COMPLAINT.

You are further notified that Local Bankruptcy Rule 42 requires that
you must indicate in your motion or answer, whichever is first filed, whether
you consent to the authority of the Bankruptcy Court to hear and determine this
matter pursuant to the provisions of 28 U.S.C. §157.

YOU ARE HEREBY NOTIFIED THAT A PRE-TRIAL CONFERENCE WITH RESPECT TO
THIS COMPLAINT HAS BEEN SET AT THE FOLLOWING TIME AND PLACE:

[None set]

(Seal of the U. S. Bankruptcy Court)
Date of Issuance: 8-31-88

U. S. Bankruptcy Court

by: M. Bondi
Deputy Clerk

*Include all names used by debtor within last six years.

SUMMONS, Local Forms, 5-85

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA

In re:

TOTEM BROADCASTING CORPORATION,
Debtor ~~XXX~~, *

BENNIE LEONARD, Trustee,
Plaintiff ~~XXX~~,

v.
RONALD K. BRADLEY, INTERNAL REVENUE Adversary No. 3-85-00199-003
SERVICE and MIKAEL PARKER, Main Case No. 3-85-00199
Defendant(s).

SUMMONS AND NOTICE OF PRE-TRIAL CONFERENCE

To the above named defendant ~~xxx~~: MIKAEL PARKER

Your are hereby summoned and required to serve upon William D. Artus, plaintiff's attorney (or if plaintiff is not represented by counsel, upon plaintiff), whose address is 629 L Street, Suite 101 Anchorage, Alaska 99501

either a motion or an answer to the complaint which is now served upon you. If you elect to respond first by motion, as you may pursuant to Bankruptcy Rule 7012, that rule governs the time within which your answer must be served. Otherwise, you are required to serve your answer upon plaintiff's attorney (or upon plaintiff, if plaintiff is not represented by counsel) within thirty (30) days of the date of issuance of this summons by the clerk except that the United States or an office or agency thereof shall serve an answer to the complaint within thirty-five (35) days after the date of issuance of the summons.

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YOU ARE HEREBY NOTIFIED THAT A PRE-TRIAL CONFERENCE WITH RESPECT TO THIS COMPLAINT HAS BEEN SET AT THE FOLLOWING TIME AND PLACE:

[None Set]

(Seal of the U. S. Bankruptcy Court)
Date of Issuance: 8-31-88

U. S. Bankruptcy Court

by: M. Bard
Deputy Clerk

*Include all names used by debtor within last six years.

SUMMONS, Local Forms, 5-85

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA

In re:

TOTEM BROADCASTING CORPORATION,

Debtor ~~K39~~, *

BENNIE LEONARD, Trustee,

Plaintiff ~~(XX)~~,

v.

RONALD K. BRADLEY, INTERNAL REVENUE
SERVICE and MIKAEL PARKER,
Defendant(s).

Adversary No. 3-85-00199-003

Main Case No. 3-85-00199

SUMMONS AND NOTICE OF PRE-TRIAL CONFERENCE

To the above named defendant(s) ~~XXX~~ RONALD K. BRADLEY

Your are hereby summoned and required to serve upon
William D. Artus, plaintiff's attorney (or if plaintiff is not represented
by counsel, upon plaintiff), whose address is 629 L Street, Suite 101
Anchorage, Alaska 99501

either a motion or an answer to the complaint which is now served upon you. If
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THIS COMPLAINT HAS BEEN SET AT THE FOLLOWING TIME AND PLACE:

[None Set]

(Seal of the U. S. Bankruptcy Court)
Date of Issuance: 8-31-88

U. S. Bankruptcy Court

by: M. Bond
Deputy Clerk

*Include all names used by debtor within last six years.

SUMMONS, Local Forms. 5-85